

# NEWSRELEASE

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## FOR IMMEDIATE RELEASE

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### **State responds to ACLU lawsuit over inmate mail**

The Montana Department of Corrections and Montana State Prison do not have an “English-only” policy regarding inmate mail, but do have a legitimate interest in ensuring the safety and security of the prison by requiring correspondence be understandable by prison officials, the department has told a federal judge.

A requirement that staff be able to comprehend what is written in mail to and from inmates is critical to the safe operation of the Deer Lodge prison, and does not advocate racial prejudice as implied in a lawsuit filed last month by the American Civil Liberties Union, the department said in a court document filed Friday.

“Inmate correspondence can be used to plot threats to the facility, its staff, other inmates and the public at large,” the agency’s attorneys wrote. “Inmate correspondence written in code or in a language which prison officials cannot understand can be used to facilitate the commission of blackmail, extortion, escape plans, trafficking in contraband, and prison assaults and disturbances.”

The state’s response came in a suit filed by the ACLU on behalf of inmate William Diaz-Wassmer, who claims he is not allowed to send or receive mail written in Spanish. The suit alleges his constitutional rights to free speech and equal protection are violated by an “English-only” correspondence policy.

Neither the department nor the prison has such a policy, according to the state’s response. In fact, the word “English” does not appear in the policy, and to brand the policy as “English-only” is an attempt to convey an image of “ethnic intolerance and bias” that does not exist, wrote department attorneys Colleen Ambrose and Ira Eakin.

The department said it lost in May 2010 the employee who volunteered to translate Wassmer’s mail and, until then, the inmate’s correspondence was not affected. The prison, confronted with budget cuts and employee reductions, has not been able to hire another interpreter.

If the court were to order the prison to provide a translator for Spanish-speaking inmates, the prison would be compelled to do the same for every foreign language spoken among the nearly 1,500 inmates, the state said.

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“DOC secure facilities have established procedures that permit offenders to send and receive mail subject only to limitations necessary to maintain public safety and facility order, security, health and rehabilitation,” the response said.

The policy criticized by the suit applies equally to all inmates, is related to a legitimate penological interest, and does not create a hardship on Wassmer either sending or receiving mail, the state said. He is fluent in English so he does not have to write in Spanish and his family members have demonstrated the ability to write letters to him in English.

The state’s brief asks that the suit be dismissed because the prison has a compelling state interest in implementing and enforcing the mail policy, which is consistent with proper incarceration.

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